

## DRAFT LETTER FOR COMMENTS – APRIL 22, 2013

Dear Assistant Secretary Delisle:

I am writing on behalf of the Kentucky Department of Education to request a waiver of the limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) that prohibits a State education agency (SEA) from granting to a local educational agency (LEA) a waiver of the carryover limitation in section 1127(a) of the ESEA more than once every three years. Section 1127(b) permits an SEA to waive the limitation in section 1127(a) once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. In accordance with these provisions, I am requesting a waiver to allow the Kentucky Department of Education to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver because it would be reasonable and necessary due to the sequester, which has resulted in additional uncertainty about the amount of Federal fiscal year (FY) 2013 Title I, Part A funds that will be available for use by LEAs primarily in the 2013–2014 school year. I am requesting this waiver to permit an LEA to carry over FY 2012 Title I, Part A funds in excess of the carryover limitation.

The Kentucky Department of Education believes that the requested waiver will provide the SEA with the ability to grant an LEA the flexibility it needs to spend its FY 2012 Title I, Part A funds thoughtfully over the remainder of this year and next year on activities that are most likely to increase the quality of instruction and improve the academic achievement of students in the face of a likely reduction in its FY 2013 Title I, Part A allocation. Accordingly, the Kentucky Department of Education believes that, ultimately, the requested waiver may help more schools and LEAs within the state meet their annual measurable objectives (AMOs) by enabling them to direct their funds to focus on activities that will assist in this regard.

The Kentucky Department of Education will ensure an LEA that is interested in obtaining a waiver of the carryover limitation in ESEA section 1127(a) so that it may carry over more than 15 percent of its Title I, Part A FY 2012 allocation and has already received such a waiver within the prior three years applies to the SEA in accordance with the Kentucky Department of Education's regular procedures for waivers of the carryover limitation. The Kentucky Department of Education hereby assures that it will implement the requested waiver only with respect to an LEA that needs a waiver of the carryover limitation for the second time within three years because of the sequester. In addition, the Kentucky Department of Education assures that it will use its AMOs, under ESEA section 1111(b)(2) or its approved ESEA flexibility request, as appropriate, to evaluate LEAs' progress in increasing the quality of instruction and improving academic achievement.

Prior to submitting this waiver request, the Kentucky Department of Education provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. The Kentucky Department of Education provided such notice by sending e-mails to each LEA on April 19, 2013 and again on April 22, 2013 (see copies of e-mails attached). Copies of all comments that the Kentucky Department of Education received from LEAs in response to this notice will be provided to the United States Department of Education. The Kentucky Department of Education has also provided notice and information regarding this waiver request to the public in the manner in which the SEA customarily provides such notice and information

to the public by posting information regarding the waiver request on its website (see attached copy of SEA's public notice).

If you have questions on this waiver, please feel free to contact Donna Tackett, Director of the Division of Consolidated Plans and Audits, by telephone or e-mail at [donna.tackett@education.ky.gov](mailto:donna.tackett@education.ky.gov) or (502) 564-3791 if you have any questions regarding this request. Thank you for considering Kentucky's waiver request.

Sincerely,

Terry Holliday, Ph.D.

Cc: Donna Tackett  
David Milanti